

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

STEPHEN M. BILLY,	:	CIVIL NO: 1:11-CV-01577
	:	
Plaintiff,	:	
	:	(Judge Conner)
v.	:	
	:	
OFFICER DANIEL PEIPER, <i>et al.</i> ,	:	(Magistrate Judge Schwab)
	:	
Defendants.	:	

REPORT AND RECOMMENDATION

Plaintiff having concurred (*Doc.* 66) in defendant Daniel Peiper’s (“Peiper”) motion to dismiss, **IT IS RECOMMENDED** that:

- (1) Peiper’s motion to dismiss (*Doc.* 29) be **GRANTED**; and
- (2) Plaintiff’s amended complaint (*Doc.* 28) be **DISMISSED** with prejudice as to Peiper.

The Parties are further placed on notice that pursuant to Local Rule 72.3:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection

is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

Failure to file timely objections to the foregoing Report and Recommendation may constitute a waiver of any appellate rights.

Submitted this **17th** day of **June, 2013**.

S/ Susan E. Schwab

Susan E. Schwab

United States Magistrate Judge